

# EXHIBIT B

**Niehaus, Stephanie E.**

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**From:** Niehaus, Stephanie E.  
**Sent:** Thursday, April 23, 2020 3:49 PM  
**To:** 'Andrew Wilson'  
**Cc:** Blake, David C.  
**Subject:** RE: ACN Subpoena

Andrew,

Thank you again for your letter.

ACN appreciates that Plaintiffs are now willing to consider revisions to the NDA to recognize and preserve ACN's rights. The version accompanying your letter is a step in the right direction, but arguably still hinders ACN's ability to enforce its rights, as you appear to recognize in your letter when you indicate that you are "prepared to talk about further modifications that would permit the use of identify information" so that ACN can initiate arbitration proceedings. We propose the following addition/revision to the first paragraph of the NDA to meet this concern:

I, \_\_\_\_\_, on behalf of non-party ACN Opportunity, LLC ("ACN"), acknowledge that I have read and understand the Protective Order in this action governing the non-disclosure of Confidential Discovery Material and Confidential Identity Information (together, "Protected Material"). I agree that (1) I will hold in confidence all Protected Material to the extent required by the Protective Order and agree to be bound by the terms of that Order; (2) I will use such Protected Material only for purposes of this litigation and for no other purpose whatsoever, **except to the extent it becomes necessary for ACN to use Protected Material in seeking to enforce its contractual or other rights with respect to any named Plaintiff or putative class member**; and (3) I will take all due precautions to prevent the unauthorized or inadvertent disclosure of such Protected Material.

ACN also appreciates that Plaintiffs have, for the first time, proposed meaningful modifications to their subpoena as a starting point for discussions. However, as we have indicated, requiring ACN to engage further in those discussions while it has requested a stay from the District Court (and, potentially the Circuit Court) is an unfair, additional drain on ACN's resources. We also obviously disagree on the merit of ACN's appeal. An appeal does not lack merit because it raises novel issues; if anything, the first impression nature of the issues underscores the importance of review by an appellate panel.

Please let us know how you propose to update the Court on the status of our meet and confer efforts.

Stephanie

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**From:** Andrew Wilson <awilson@ecbalaw.com>  
**Sent:** Monday, April 20, 2020 6:25 PM  
**To:** Niehaus, Stephanie E. <stephanie.niehaus@squirepb.com>  
**Cc:** Alexander Rodney <arodney@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>; David Berman <DBerman@ecbalaw.com>; Andrew G. Celli <acelli@ecbalaw.com>  
**Subject:** [EXT] ACN Subpoena

Please see attached.

[O. Andrew F. Wilson](#)

Partner

Emery Celli Brinckerhoff & Abady LLP

600 Fifth Avenue, 10<sup>th</sup> Floor

New York, NY 10020

212.763.5000

[www.ecbalaw.com](http://www.ecbalaw.com)

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